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असाधारण

EXTRAORDINARY

भाग II—खण्ड 3—उपखण्ड (ii)

PART II—Section 3—Sub-section (ii)

प्राधिकार से प्रकाशित

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NEW DELHI, SATURDAY, MAY 7, 1966/VAISAKHA 17, 1888

इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation.

MINISTRY OF HOME AFFAIRS

NOTIFICATION

New Delhi, the 6th May 1966

S.O. 1403.—The following Order made by the President is published for general information.

ORDER

Whereas in a petition, dated the 16th July, 1965, addressed to the President of India by Shri Debabrata Dutta, a resident of Agartala in Tripura, a question was raised as to whether Shri Sukhamoy Sen Gupta, a member of the Legislative Assembly for Tripura and also a Minister of the Government of that Union territory had become disqualified for being such a member by reason of his holding the office of the proprietor of a daily newspaper of Agartala, called 'Ganaraj' publishing Government advertisements;

And whereas the opinion of the Election Commission has been obtained on the said question, as required by sub-section (4) of section 14 of the Government of Union Territories Act, 1963, (a copy of which opinion is annexed hereto);

Now, therefore, in exercise of the powers conferred upon me by sub-section (3) of section 14 of the Government of Union Territories Act, 1963 (20 of 1963), I, Sarvepalli Radhakrishnan, President of India, do hereby decide, in accordance with the opinion of the Election Commission, that the said Shri Sukhamoy Sen Gupta has not become disqualified for being a member of the Legislative Assembly of Tripura by reason of his holding the office of the proprietor of the said newspaper.

RANJITRAJ BHAVAN,
NEW DELHI,

(Sd.) **S. RADHAKRISHNAN,**
President of India.

The 22nd April, 1966.

ANNEXURE
ELECTION COMMISSION, INDIA

In a petition, dated the 16th July, 1965 and submitted to the President of India, Shri Debabrata Dutta, a resident of Agartala, alleges that Shri Sukhamoy Sen Gupta, a member of the Legislative Assembly of Tripura and also a Minister of the Government of that Union Territory, holds an office of profit under the Government and consequently has become disqualified for being a member of the Legislative Assembly. The allegations in the petition on which he bases this contention are that the member is the proprietor and editor of a daily newspaper called 'Ganaraj' which is being published in Agartala since April, 1960, and that the member, taking advantage of his position as a Minister, gives all government advertisements to this newspaper. The petitioner's contention is that the office of the proprietor of 'Ganaraj', which publishes government advertisements for a consideration, is an office of profit under the Government and the member holds this office.

2. Although a full opportunity was given to the petitioner to appear before the Commission either in person or by counsel and to represent the matter further, the petitioner did not appear before the Commission. The Commission did not consider it necessary to make any enquiry of the member as regards the truth of the allegations in the petition.

3. It is clear that even if these allegations are factually correct, the member cannot be said to be holding any office of profit under the Government. If he is the proprietor of the newspaper as alleged and the newspaper in the course of its business publishes government advertisements for a consideration, it can only be said that the proprietor enters into contracts with the Government which give him profit. The proprietorship of the newspaper does not thereby become an office under the Government. The alleged contracts also do not fall within the scope of clause (d) of section 7 of the Representation of the People Act, 1951, inasmuch as they are not for the supply of any goods to the Government nor for the execution of any works undertaken by the Government.

4. The Commission accordingly tenders the opinion that even if the allegations contained in the petition, which have not been verified by the Commission, are true, Shri Sukhamoy Sen Gupta has not become subject to any disqualification for being a member of the Legislative Assembly of Tripura under the provisions of sub-section (1) of section 14 of the Government of Union Territories Act, 1963.

NEW DELHI,
Dated the 16th November, 1965.

Sd/- K. V. K. SUNDARAM,
Chief Election Commissioner.

[No. 10/26/65-SR(R).]

HARI SHARMA, Secy. (UT).